

INVITATION FOR BIDS (IFB)

Issue Date: March 4, 2013

IFB# 411:A13000-12

Title:

Herbicide Release Spraying - (Spray Area 2)

Commodity Code:

91021

Issuing Agency:

Commonwealth of Virginia, Department of Forestry
900 Natural Resources Drive, Suite 800
Charlottesville, VA 22903

Using Agency And/Or Location

Where Work Will Be Performed: Commercial Forestland: **DOF Central & Western Regions** (Albemarle, Amherst, Appomattox, Augusta, Brunswick, Buckingham, Campbell, Charlotte, Clarke, Culpeper, Cumberland, Fauquier, Fluvanna, Frederick, Goochland, Greene, Halifax, Loudoun, Louisa, Lunenburg, Madison, Mecklenburg, Nelson, Orange, Page, Prince Edward, Prince William, Rappahannock, Rockingham, Shenandoah, Warren, Craig, Bedford, Botetourt, Franklin, Henry, Patrick, Pittsylvania, Roanoke, and Rockbridge Counties)

Period of Contract:

Aerial and Ground broadcast spray application - from August 1, 2013 through October 1, 2013.
Hand directed foliar spray application – from July 15, 2013 through October 1, 2013.
 Performance stipulation extends until October 1, 2014.

Sealed Bids Will Be Received Until **11:00 A.M, March 28, 2013** For Furnishing the Goods/Services Described Herein and Then Opened in Public. Bids will be opened at 1:00 P.M. on March 28, 2013.

All Inquiries for Information Should Be Directed To: Todd Groh Phone: 434 220-9044

IF BIDS ARE MAILED, SEND DIRECTLY TO ISSUING AGENCY SHOWN ABOVE. IF BIDS ARE HAND DELIVERED, DELIVER TO: Department of Forestry, 900 Natural Resources Drive, Suite 800; Charlottesville, VA 22903. Map available on website @ www.dof.virginia.gov.

In Compliance With This Invitation For Bids And To All The Conditions Imposed Herein, The Undersigned Offers And Agrees To Furnish The Goods/Services Described At The Price(s) Indicated In Section 7, Pricing Schedule. Use the Bid Form on Page 18. Comply With All Other Instructions For Bidding in Section 7.1.

Name and Address of Firm:

Date: _____

By: _____

(Signature In Ink)

_____ Zip Code _____

Name: _____

(Please Print)

FEI/FIN NO. _____

Telephone Number: () _____

Title: _____

MANDATORY PRE-BID CONFERENCE: A mandatory pre-bid conference will be held on Thursday, March 14, 2013, 10:00 A.M. at the Virginia Department of Forestry Headquarters Office, Board Room, 900 Natural Resources Drive, Charlottesville, VA 22903 (Reference: Section 3 herein).

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1. **PURPOSE:**

The Purpose and intent of this Invitation for Bid is to establish contract prices from herbicide applicators, hereinafter called Contractors, for the application of herbicides for pine release on Commercial forestland in Virginia for landowners who chose to utilize this contract. The Department of Forestry, hereinafter called Department is authorized to contract for the services under Sections 10.1-1101 and 10.1-1105 of the *Code of Virginia*.

2. **SCOPE OF WORK:**

2.1 Contractor Responsibilities and Rights

- 2.1.1 General:** Contractor agrees to furnish all labor, supervision, insurance, tools, equipment, and chemicals, and to apply herbicides in accordance with the terms and specifications of this agreement.
- 2.1.2 Independent Contractor:** The Contractor, his employees and agents are not to be, at any time, considered servants, agents, or employees of the Commonwealth of Virginia, nor of any department or division thereof, but instead are considered to be independent contractors.
- 2.1.3 Sub-Contract:** The Contractor shall not offer sublet to subcontractors without first securing the written consent of the Department.
- 2.1.4** Consent by the Department to any such subletting shall not relieve the Contractor of full responsibility and liability for the work to be performed by the subcontractor.
- 2.1.5** Contractor shall notify the Department of the names and addresses of all subcontractors as soon as they are determined and such notices shall include the location, nature and extent of the work to be performed.
- 2.1.6 Operations and Inspections:** Contractor shall apply herbicides to all tracts contracted with landowners under this agreement. Specifics of the operations are spelled out in Attachment 3
- 2.1.7** The Contractor agrees to have an aircraft and full complement of delivery and support systems as well as ground based, broadcast application equipment available and ready for application work on August 1, of the program year, and for hand application, directed foliar spray equipment ready by July 15, of the program year.
- 2.1.8** The Contractor agrees to provide at least one helicopter with attached spraying equipment as defined in this contract, and any ground based equipment needed to apply herbicides to tracts requiring ground based application as determined by the Department. Tracts designated for broadcast application or directed foliar application by the Department cannot be changed unless agreed upon, in advance, by both the Department and the Contractor.
- 2.1.9 Chemical Purchases:** It shall be the responsibility of the Contractor to secure and/or purchase the appropriate chemicals, supplies, additives, etc., to meet the requirements of Attachment 4, of this agreement. The Contractor shall also be responsible that adequate amounts of these chemicals, supplies, additives, etc., be in proper amounts and strategic locations for the spraying project so that delays shall not occur due to the absence of these substances.
- 2.1.10 Chemical Shortages during contract period:** If there is a shortage of the guarantee chemical product during the contract period, the statewide spray coordinator will work with the manufacturer or distributor to identify a replacement chemical that will hold the same guarantee, if possible. The Department will then coordinate with contractor to adjust the contract price to the landowner based on the price differential between the original chemical cost and the replacement.
- 2.1.11** By April 25, 2013 the Contractor will send contracts to all landowners on the Department's contact list and will accept contracts back from the landowners if they are returned by 5:00 pm, July 1. Penalty for not meeting this deadline will be addressed in Section 8, Item 8.6 Non-Performance Provision.
- 2.1.12** The Contractor agrees to update an electronic spreadsheet of all the landowners who have returned the Contractor's spray contract. This spreadsheet will be updated by the Contractor and sent to the statewide spray coordinator **at least** every week beginning on April 25 through July 1. Spray maps will be generated by the Department on a regular basis as the Department receives the spreadsheet.

- 2.1.13 Contractor also agrees to comply with all laws, rules and/or regulations applicable to the safe performance of such work, including without limiting the generality of the foregoing, Public Law 91-596, Title, "Occupational Safety and Health Act of 1970."
- 2.1.14 Certification: All aircraft used in this project shall be operated in conformity with the requirements of the Federal Aviation Administration and State Corporation Commission and be fully and properly registered and/or certified in compliance with all local, state, and federal laws and regulations including the Virginia Department of Aviation permit. Registration shall be in pilot's possession.
- 2.1.15 All appropriate certification and licensing, required by the Environmental Protection Agency and Virginia Department of Agriculture and Consumer Services, pertaining to the use and application of herbicides shall be the responsibility of the Contractor. Certifications, licenses and/or permits shall be valid for the period of application and available for inspection by federal, state, and local authorities having jurisdiction over this project. Copies of these certificates, licenses, and permits shall be made available to the Department upon request. (see Section 5.9 for a complete list of requirements)
- 2.1.16 Pilot: The pilot(s) must carry a valid commercial pilot's certificate. Each pilot used in this operation must have a minimum of 250 hours of helicopter flying time, which shall include a minimum of 25 hours of low-level flying for the application of herbicides for woody plant control. Flying shall be in compliance with all federal, state, and local laws.
- 2.1.17 Aircraft: The aircraft to be used for this project shall be restricted to a helicopter capable of lifting a minimum load of 50 gallons and a maximum of 150 gallons of chemical mix.
- 2.1.18 All equipment, supplies, chemicals, and aircraft, as well as mixing, loading and application shall be subject to inspection by the Department at any time during this project. This will include random checks by the Department of any or all treatment tracts including aerial application and ground application.
- 2.1.19 Contractor Safety: Contractor agrees to perform the work in a safe and careful manner and to furnish and use, and require its employees to use, such safety devices, methods and measures as are required by the Worker Protection Standard to protect its employees, its subcontractor's employees, the employees of others engaged in the work, and the public against bodily injury or damage to property.
- 2.1.20 Communications
- a) The Contractor shall use appropriate radio equipment to insure continuous ground-to-air communications during all air operations.
 - b) Should communications equipment fail while an operation is in progress, the operation shall terminate immediately and shall not resume until communications are again established.
- 2.1.21 Department / Contractor Communication: Prior to arrival of the spray ship in a county, the Forester, Certified Forester (CF) , or Candidate Certified Forester (CCF) employed by the contractor **will** notify the Regional Spray Coordinator's Office and the County Sheriff's Office of the expected dates and purpose of operation in the county. Include the company name, type of helicopter, tail number, and contact phone number in the notification. The Contractor will notify the Regional Spray Coordinator's Office and the Sheriff's Office again on the departure of the ship from the county. **The ground spray crew leader/supervisor will notify the Regional Spray Coordinator's Office upon entering and departing from a county. They will not need to notify the sheriff's office.**
- 2.1.22 The Department's Area Forester and the Contractor's Forester, CF, or CCF will communicate prior to the tracts within the county being sprayed to discuss county and tract specific information.
- 2.1.23 Tract Visits: In preparing for the spraying operation, the contractor's Forester, CF, or CCF will exercise due diligence in planning for the operation; including making necessary site visits and reconnaissance.

- 2.1.24 **Damage Claims:** Should the Contractor receive notice of any damage claim, he shall, in turn, **notify the Department within 10 days specifying location of tract sprayed, nature of damage, and name and address of the person making said claim.** The Contractor shall also contact the person making the claim within 10 days to begin the process for resolution of the claim. Upon resolution of the claim, the Contractor will inform the Statewide Spray Coordinator of the resolution. Failure of the Contractor to comply shall be deemed a serious violation that may result in contract termination.
- 2.1.25 **Contractor Rights:** The Contractor reserves the right to halt spray operations when the Department or one of its representatives, fail to meet their responsibilities as outlined in this contract.
- 2.1.26 The Contractor reserves the right to halt spray operations when, in the Contractor's opinion, conditions are unsafe for aircraft flight and/or herbicide applications.

2.2 Department Responsibilities and Rights

- 2.2.1 **Tract Designation:** A tract shall include all of a parcel of land, at least five (5) acres in size encompassed by a continuous perimeter boundary. While there may be numerous "parcels" within a tract, acreage of all sprayed parcels within a tract shall be totaled to obtain total sprayed acreage for a given tract.
- 2.2.2 The Department shall provide a map (produced by the Department on Integrated Forest Resource Information System (IFRIS)) to the Contractor of each tract to be sprayed before operations begin. **IFRIS maps will only be developed for landowners who have returned signed contracts to the contractor.** Once the contract is awarded, the Department will submit a list of potential landowners and the potential spray tract's GPS coordinates to the Contractor.
- 2.2.3 The Department map shall show streams, water impoundments, dwellings, crops and other hazardous areas which must not be sprayed. **If the acreage to be sprayed is changed by request of the landowner, or by decision of the pilot, the acreage change shall be noted on the map and the flight log before leaving the tract. Acreage change requests made by the landowner should be noted and, if possible, signed by the landowner. Acreage changes with corresponding reasons for the change shall also be reported to the Department on the Form 158, County Summary of Aerial Herbicide Application.**
- 2.2.4 The Department's Area Forester will be available prior to the beginning of the contract period to show the tracts in each county to the Contractor. **The Department's Area Forester and the Contractor's Forester, CF, or CCF will communicate prior to the tracts within the county being sprayed to discuss county and tract specific information.** If a meeting is necessary, the Contractor should set up the meeting date and time with the Department forester at least 48 hours in advance to insure the forester's availability.
- 2.2.4.1 The Department will provide contact information for public gathering places within 500 feet of treatment blocks expected to be treated with aerial methods.
- 2.2.4.2 The Department will provide contact information for expected sensitive sites within 5 air miles of expected aerial treatment blocks (power plants, military installations)
- 2.2.4.3 The Department will provide to the Contractor any known environmentally sensitive sites adjacent to all treatment blocks (public water intakes and others)
- 2.2.5 The Department reserves the right to halt the spray operation at any time when, in the opinion of the Department, the Contractor violates the contract or the Contractor's performance is unsafe, or otherwise unsatisfactory.
- 2.2.6 The Department reserves the right to reject any and all bids.
- 2.2.7 The Department reserves the right to designate approved water sources and only those sources shall be used. The Department may provide to the Contractor with contact information for any approved water sources, municipal or other, which may be available to the contractor during the contract period. It is the responsibility of the contractor and/or subcontractor to make whatever arrangements necessary to secure water for the spray operation.
- 2.2.8 The Department reserves the right to inspect any and all contractors and subcontractors operations at any time.

2.3 **Dates of Application**

- 2.3.1 Aerial broadcast spraying will commence on August 1, of the program year and end no later than October 1, of the program year, unless the Department grants a contract extension. Hand application, directed foliar spray, may commence as early as July 15, of the program year and end no later than October 1, of the program year.

2.4 **Participation Agreement:**

- 2.4.1 The Department will send a Participation Agreement (Attachment # 8) to each landowner participating in the contract. The Agreement outlines the landowner's and Department's responsibilities under the program. The landowner is required to sign the Agreement in order to participate in the contract.
- 2.4.2 The Department will update an electronic spreadsheet of all the landowners who have returned the Participation Agreement (Attachment #8). This spreadsheet will be updated by the Department and sent to the Contractor every week beginning on July 1 through August 1.

3. **MANDATORY PRE-BID CONFERENCE**

A **mandatory pre-bid conference** will be held on Thursday, March 14, 2013, beginning at 10:00 A.M. in the Department of Forestry's Central Office, Board Room, 900 Natural Resources Drive, Charlottesville, VA 22903. The purpose of this conference is to allow potential bidders an opportunity to ask questions and obtain clarification relative to any facet of this invitation to bid. See www.dof.virginia.gov for directions to the Central office.

Attendance or representation at this conference will be a prerequisite for bidding for anyone who wishes to bid. Bids will be accepted only from those bidders who have been represented at the pre-bid conference as evidenced by signature on the roster from this year's conference. A copy of the contract will be made available at this meeting, if needed. Any changes resulting from this conference will be issued in an addendum to the solicitation to those who have qualified.

4. **GENERAL TERMS AND CONDITIONS**

- 4.1 **Vendors Manual:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the internet at www.eva.virginia.gov under "Vendors Manual" on the vendors tab.
- 4.2 **Applicable Laws and Courts:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- 4.3 **Anti-Discrimination:** By submitting their (bids/proposals), (bidders/offerors) certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1 and 2 below apply:

1. During the performance of this contract, the Contractor agrees as follows:
 - a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Contractor will include the provisions of #1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- 4.4 Ethics in Public Contracting: By submitting their (bids/proposals), (bidders/offers) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.
- 4.5 Immigration Reform and Control Act of 1986: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- 4.6 Debarment Status: By submitting their (bids/proposals), (bidders/offers) certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- 4.7 Antitrust: By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.
- 4.8 Mandatory Use of State Form & Terms & Conditions for Invitation for Bids (IFBs): Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as non-responsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the Bidder withdraw or modify non-responsive portions of a bid which do not affect quality, quantity, price or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.
- 4.9 Clarification of Terms: If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

4.10 PAYMENT:

4.10.1 To Prime Contractor:

- a) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c) All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e) Unreasonable Charges: Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

4.10.2 To Subcontractors:

- a) A Contractor awarded a contract under this solicitation is hereby obligated:
 - 1. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - 2. To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- b) The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

- 4.10.3 Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4.10.4 The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

4.11 The following General Terms and Conditions *VENDORS MANUAL APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

4.12 Qualification of Bidders/Offerors: The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The Commonwealth further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the Commonwealth that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein

4.13 Testing/Inspection: The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure supplies and services conform to the specification.

4.14 Assignment of Contract: A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.

4.15 Changes to the Contract: Changes can be made to the Contract in any one of the following ways:

4.15.1 The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

4.15.2 The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a) By mutual agreement between the parties in writing; or
- b) By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c) By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from

promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

- 4.16** Default: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.
- 4.17** Taxes: Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K. It is the responsibility of the contractor to purchase chemicals, supplies, additives, etc. for this contract. These purchases are not made with public funds or through an official purchase order, and therefore are subject to sales tax if purchased in Virginia."
- 4.18** Use of Brand Names: **Unless otherwise provided in this solicitation (as is stated in this contract – see Attachment #4)** the name of a certain brand, make or manufacturer does not restrict (bidders/offersors) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The (bidder/offersor) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offersor) clearly indicates in its (bid/proposal) that the product offered is an equivalent product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.
- 4.19** Transportation and Packaging: By submitting their (bids/proposals), all (bidders/offersors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- 4.20** Insurance: By signing and submitting a bid or proposal under this solicitation, the bidder or offersor certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offersor further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.
- 4.20.1** MINIMUM INSURANCE COVERAGE AND LIMITS REQUIRED FOR MOST CONTRACTS: (See Section 5.5.3 for the complete list of requirements)
- a) Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
 - b) Employer's Liability - \$100,000.
 - c) Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
 - d) Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

4.21 Announcement of Award: Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site (www.eva.state.va.us) for a minimum of 10 days.

4.22 Drug-Free Workplace: During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

4.23 Nondiscrimination of Contractors: A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

4.24 eVA Business-To-Government Vendor Registration: The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the bid/proposal being rejected.

Effective July 1, 2011, vendor registration and registration-renewal fees have been discontinued. Registration options are as follows:

4.24.1 eVA Basic Vendor Registration Service: eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.

4.24.2 eVA Premium Vendor Registration Service eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.

Vendor transaction fees are determined by the date the original purchase order is issued and are as follows:

4.24.3 For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order.

4.24.4 For orders issued August 16, 2006 thru June 30, 2011, the Vendor Transaction Fee is:

- a) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
- b) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

4.24.5 For orders issued July 1, 2011 thru June 30, 2012, the Vendor Transaction Fee is:

- a) DMBE-certified Small Businesses: 0.75%, capped at \$500 per order.
- b) Businesses that are not DMBE-certified Small Businesses: 0.75%, capped at \$1,500 per order.

4.24.6 For orders issued July 1, 2012 and after, the Vendor Transaction Fee is:

- a) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
- b) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- 4.25 Availability of Funds: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- 4.26 Set-Asides: This solicitation is set-aside for DMBE-certified small business participation only when designated "SET-ASIDE FOR SMALL BUSINESSES" in the solicitation. DMBE-certified small businesses are those businesses that hold current small business certification from the Virginia Department of Minority Business Enterprise. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received the DMBE small business certification. For purposes of award, bidders/offerors shall be deemed small businesses if and only if they are certified as such by DMBE on the due date for receipt of bids/proposals.
- 4.27 Bid Price Currency: Unless stated otherwise in the solicitation, bidders/offerors shall state bid/offer prices in US dollars.
- 4.28 Authorization to Conduct Business in the Commonwealth: A contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

5. SPECIAL TERMS AND CONDITIONS

5.1 Delivery System Aerial Application:

- 5.1.1 The delivery system shall be restricted to the Chemical Label specifications and/or Label volume mean diameter (VMD) recommendation guides for the selection and setup of the spray system. But in no case should an aerial forestry herbicide application deliver a droplet size distribution smaller than the ASAE coarse to very coarse category, 430-655 microns, for spray heights above 10 feet, and the percentage of very fine droplets must be less than one percent. The Department may request verification that boom and delivery system meet above requirements.

The nozzles shall be kept clean and free of blockage at all times. At least 12 extra sets of usable and ready nozzles shall be on hand at all times while applications are being made. Cut-off valves shall be of a design to assure positive cut-off at all times when not spraying. Dripping nozzles shall be cause for stopping spray operations.

- 5.1.2 The boom must be mounted in the front of the aircraft and be located in static air outside of aircraft displacement.
- 5.1.3 All nozzles and connections of the delivery system shall be free of leaks and spills. Failure to secure a completely closed system shall constitute reason for stopping spray operation.

- 5.1.4 The spray delivery system must be capable of applying chemical spray having a minimum swath width of 45 feet from the helicopter flying at least 100 feet above the ground, and permitting a uniform distribution of the chemical mixture at the rate of 5 or 10 gallons per acre in a single pass for release spraying.

5.2 Support System Aerial Application:

- 5.2.1 The Contractor will provide qualified personnel; including a forester (as defined by the Code of Virginia, a Certified Forester (CF) or a Candidate Certified Forester (CCF) certified by the Society of American Foresters) with at least one year aerial spray experience and a current Virginia Commercial Pesticide Applicators Certificate in Forest Pest (category 2) to be on site for all aerial application operations. The Contractor will provide the forester's "credentials" to the State Spray Coordinator prior to the beginning of the contract. The Contractor will also provide equipment to adequately facilitate herbicide mixing, hauling, personnel movement, loading and fueling during the application. This support group will be responsible to the Contractor and will do those things necessary to provide efficient application at each site. This group and equipment will be expected to move from heliport to heliport as the application service moves from area to area. The Department will not provide transportation for Contractor's personnel.
- 5.2.2 The Contractor should have adequate support forces, aircraft and personnel to effectively carry out a day of spraying within a given area if and when weather and other factor's permit continuous operations.
- 5.2.3 The Contractor will have approved metering/measuring devices which will accurately measure the volume of herbicide, water and other required additives into the mixing tank. There will also be an approved metering/measuring device which accurately measures the volume of herbicide mix as it is loaded onto the aircraft.
- 5.2.4 The Contractor will provide the Department evidence that **all metering devices employed have been inspected and calibrated by a licensed inspector** within two months of the beginning of the contract.
- 5.2.5 The Contractor will ensure a minimum of 30 minutes agitation when mixing a full multi-compartment tank of herbicide, surfactant and water. Single tank mixes of 1,000 gallons or less will be agitated for a minimum of 15 minutes. Mixes that have sat for six (6) or more hours after mixing will be agitated for at least 15 minutes before applying.
- 5.2.6 The Contractor will maintain a completely closed ground support system with all nozzles having quick shutoff valves, all connections leak free and all valves able to completely stop the flow of herbicide and/or mix. Failure to maintain a completely closed system shall constitute reason for stopping spray operations.
- 5.2.7 The contractor shall have installed and working in the aircraft a geographic positioning system (GPS) capable of defining, recording and displaying flight line information comparable to and compatible with the following systems: Satloc®, Trimble®, AG-NAV®. The system shall be used on each tract treated by aerial methods in the contract to achieve precise, accurate spray swath on each acre to be sprayed. The pilot will keep tract specific information for each tract treated. Failure to maintain an operable GPS shall constitute reason for stopping spray operations
- 5.2.8 The contractor shall electronically store the **"tract specific"** GPS flight line information so generated until October 1, of the year following the program year; and if requested by the Department, shall extract data on file to show proof of application on a specific parcel(s) sprayed under the contract. The information will be made available to the Department in an electronic format that is usable in ARCGIS software. The preferable format would be the "Shapefile" format.
- 5.2.9 Woody vegetation will be treated in such a manner to achieve **90%** coverage of the treatable area as determined by the Department in the growing season following the program year.
- 5.2.10 The Department's tract map represents the area and acreage to be sprayed. If there are acreage differences, the Department Forester will allow up to **2 acre** difference in Department spray acreage to the Contractor's spray acreage and will adjust the application acres accordingly upon receiving GPS documentation from the contractor. Any differences higher than **2 acres** may be re-measured by the contractor and/or DOF and both entities must come to an agreement on final acres.

5.3 Delivery System Ground Application:

5.3.1 The delivery system shall be restricted to a hand directed foliar spray or broadcast skidder application. No component of the delivery system shall leak. Leaking will be cause for stopping treatment operations.

5.3.2 Satisfactory coverage of herbicides

5.3.2.1 Hand Directed Foliar Spray Application

- a) Woody vegetation will be treated in such a manner that **90%** of the pines on the tract will be free-to-grow as determined by the Department in the growing season following the program year.
- b) Stems in excess of 9 (nine) feet at the time of application shall be treated in a manner agreed upon by the contractor and the Department.
- c) Treatment will be concentrated on woody and herbaceous vegetation with special care taken to avoid spraying the herbicide directly on the pine tree seedlings.

5.3.2.2 Broadcast Skidder Application

- a) Woody vegetation will be treated in such a manner to achieve **90%** coverage of the treatable area as determined by the Department in the growing season following the program year.
- b) Stems in excess of 9 (nine) feet at the time of application shall be treated in a manner agreed upon by the contractor and the Department.

5.4. Support Systems Ground Application:

5.4.1 The Contractor will provide qualified personnel and equipment to adequately facilitate mixing, herbicide hauling, personnel movement, loading and fueling during the application. This support group will be responsible to the Contractor and will do those things necessary to provide efficient application at each site. This group and equipment will be expected to move from tract to tract as the application service moves from area to area. The Department will not provide transportation for Contractor's personnel.

5.4.1.1 Crew Requirements

- a) Minimum crew size is 2 for Broadcast Skidder and Hand Directed Foliar Spray Application.
- b) Crew leader/Supervisor must be able to speak English fluently.
- c) Crew leader will be responsible for completion of all tracts and county specific paperwork as listed in Attachment #3 but does not need to meet the requirements of "Forester", but does need to have a current Virginia Commercial Pesticide Applicators Certificate in Forest Pest (category 2)

5.4.2 The Contractor should have adequate support forces, application equipment and personnel to effectively carry out a day of spraying within a given area if and when weather and other factor's permit continuous operations.

5.4.3 The Contractor will have approved metering/measuring devices which will accurately measure the volume of herbicide, water and other required additives into the mixing tank. There will also be an approved metering/measuring device which accurately measures the volume of herbicide mix as it is loaded onto the application equipment.

5.4.4 The Contractor will provide the Department evidence that all metering devices employed have been inspected and calibrated by a licensed inspector within two months prior to the beginning of the contract.

5.4.5 The Contractor will ensure a minimum of 30 minutes agitation when mixing a full multi-compartment tank of herbicide, surfactant and water. Single tank mixes of 1,000 gallons or less will be agitated for a minimum of 15 minutes. Mixes that have sat for six (6) or more hours after mixing will be agitated for at least 15 minutes before applying.

- 5.4.6 The Contractor will maintain a completely closed ground support system with all nozzles having quick shutoff valves, all connections leak free and all valves able to completely stop the flow of herbicide and/or mix. Failure to maintain a completely closed system shall constitute reason for stopping spray operations.
- 5.4.7 If the tracts have not been measured by DOF using GPS prior to the spray application, the contractor may measure the tract using GPS prior to or during treatment to determine accurate acre measurements. The DOF forester may allow up to a **2 acre** difference in DOF spray acreage to the Contractor's spray acreage and may adjust the application acres accordingly upon receiving GPS documentation from the contractor. Any differences higher than 2 acres may be re-measured by the contractor and/or DOF and both entities must come to an agreement on final acres.
- 5.4.8 The contractor shall electronically store the GPS information so generated until October 1, of the year following the program year; and if requested by the Department, shall extract data on file to show proof of application on a specific parcel(s) sprayed under the contract.

5.5 Insurance

- 5.5.1 By signing and submitting a bid under this solicitation, the Bidder certifies that if awarded the contract, the Contractor will submit their own and all subcontractor's appropriate documentation of the following insurance coverage's to the State Spray Coordinator in Charlottesville at least one month prior to the beginning of the contract.
- 5.5.2 The Bidder certifies that the contractor and any subcontractors will maintain these insurance coverage's during the entire term of the contract and that all insurance coverage's will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.
- 5.5.3 **INSURANCE COVERAGE AND LIMITS REQUIRED:**
- a) Worker's Compensation - Statutory requirements and benefits.
 - b) Employers Liability - \$100,000.
 - c) Commercial General Liability - \$1,000,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability or Owner's and Contractor's Protective Liability
 - d) Automobile Liability - \$500,000. – Combined Single limit.
 - e) Aircraft Liability - \$1,000,000 Bodily Injury and \$1,000,000 property damage.
 - f) Chemical Liability - \$300,000 combined single limit or split limits of \$100,000 per person and \$300,000 aggregate for bodily injury and \$100,000 for property damage.
 - g) The Commonwealth of Virginia must be named as an Additional Insured with respect to Commercial General Liability Coverage, Aircraft and Chemical Liability Coverage's.

5.6 Herbicide Label

- 5.6.1 The Contractor shall carefully follow all instructions and guidelines on the herbicide label. This includes the mixing of various types of herbicides only in accordance with label instructions and EPA regulations. The Contractor shall have a copy of the Chemical Label(s) available on site at all times during the spray operations for each chemical being applied, including surfactants.

5.7 Guidelines for the Application of Herbicides

- 5.7.1 The Forester, CF or CCF on-site will insure that the Department's guidelines for Application of Herbicides are followed as specified in **Attachment #3.**

- 5.8 **Storage & Disposal:** Contractor shall store and dispose of all herbicides, fuel oil and other chemicals and empty containers in a manner consistent with federal, state, and local laws and/or regulations. Service containers used for temporary storage of herbicide concentrates or end-use dilutions shall be labeled in a manner consistent with the Virginia Pesticide Control Act regulations.

- 5.9 **State Requirements:** Prior to the beginning of work under this contract, the successful bidder(s) must satisfy the requirements of various Departments of the Commonwealth including, but not limited to, the following:
- 5.9.1 Virginia Department of Aviation:
 - a) Certificate of Insurance
 - b) Pesticide Certificate for Aerial Application
 - c) Aircraft License
 - 5.9.2 Virginia Department of Taxation:
 - a) Payment of Aircraft Sales Use Tax
 - 5.9.3 Virginia Department of Agriculture and Consumer Services:
 - a) Certificate of Insurance
 - b) Virginia Certificate for Aerial Pesticide Application (Pilot)
 - c) Pesticide Business License
 - d) Proper Certification for ground crew (Technician Certification or in-training to become a certified technician)
 - e) Virginia Commercial Pesticide Application license - supervising forester
 - 5.9.4 Other:
 - a) Establish a registered agent with the State Corporation Commission.
- 5.10 **Indemnification:** Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its agencies, its officers, agents, and employees from any claims, damages and actions of any kind or nature, by Contractor or by third parties, whether at law or in equity, arising from or caused by Contractor's performance under any contract awarded hereunder, included but not limited to claims arising as the result of the use of materials, goods, equipment or services furnished by Contractor thereunder.
- 5.11 **Award:** The Department will make the award of the spray area contract to the lowest responsive and responsible bidder based on the average weighted cost per acre. The Commonwealth reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.
- 5.12 **Extension of Contract:** Upon agreement of both parties, this contract may be extended by the Department for a period of up to 30 days as mutually negotiated within 10 days of the expiration date.
- 5.13 **Bid Prices:** As specified in the Instructions for Bidding (Section 7.1) bids/offers for Section 7.2 shall be in the form of a firm per-acre price during the contract period while the per-acre bid in Section 7.3 shall be firm regardless of tract or plot size. The only exception to this bid price standard is stated in Section 2.1.10 Chemical Shortages During Contract Period.
- 5.14 **Availability of Funds:** It is understood and agreed between the parties herein that the Department shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- 5.15 **Payment for Acreage Sprayed:** The acreage and number of tracts shown in Attachment 2 of this agreement are only estimates based on planting work documented by the Department, and the Department makes no representation that such estimate will be the final acreage amount or the number of tracts to be sprayed. In the event that the amount of acreage or the number of tracts estimated in Attachment 2 exceeds, by any amount, the amount of acreage and number of tracts which are actually sprayed, the Department shall be under no obligation to make any payments to the Contractor, for any acreage not actually sprayed, but the charge per acre for the acreage actually sprayed shall remain the same as based on the charges given in Attachment 5.
- 5.15.1 The Department may request spraying on more acreage than called for in Attachment 2. The additional acreage will not exceed more than **35%** of the acreage, without mutual consent of the Contractor. This documented consent for additional acreage shall be subject to the availability of additional chemicals and the time of spraying specified in Section 2.3.1.
 - 5.15.2 The price for treating additional acreage shall remain the same as submitted on the bid form Section 7.2 and 7.3 and as specified in Attachment 5 as completed by the Department once a Contractor has been selected.

- 5.16 Labeling of Hazardous Substances:** If the items or products requested by this solicitation are "Hazardous Substances" as defined by Section 3.1-250 of the Code of Virginia (1950), as amended, or section 1261 of Title 15 of the United States Code, then the Bidder, by submitting this bid, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the Bidder/Offeror does not violate any of the prohibitions of §3.1-252 of the *Code of Virginia* or Title 15 U.S.C. Section 1263.
- 5.17 Minority/Women Owned Businesses Subcontracting and Reporting:** Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the buyer and/or from the Division of Purchases and Supply. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.

6. METHOD OF PAYMENT

- 6.1 Landowner Payment to Contractor:** Payment will be made by the Landowner to the Contractor for the acres sprayed after the **satisfactory completion of the work and the contractor receiving the Department's approval.** The contractor will submit the Department's Form 158; "County Summary of Aerial Herbicide Application" (attachment #10) once the work is completed within the county **or** on a weekly basis. The Department will review the number of acres and tracts treated, rate and method of application and approve or deny each tract listed on the Form 158 within a reasonable time frame. Once approved, the Department will notify the contractor that they may invoice the landowner. **The Contractor will provide a copy of each landowner invoice to the respective Regional Spray Coordinator at the time that the landowner is invoiced, or within 10 business days of the contract period unless there is an acreage dispute.**
- 6.1.1** This contract will spray tracts that are **five** acres in size and larger. If the Contractor does spray any tracts less than **ten** acres, the contractor may bill the landowner at the **ten** acre rate, i.e. the landowner will be billed for ten acres of spraying.
- 6.1.2** At the discretion of the contractor, the landowner may be charged up to 50% (fifty) of the estimated project costs in advance. The contractor may require this prepayment at the initiation of the project contract and prior to treatment.
- 6.2 Contractor Payment to Department:** The Contractor will pay a fee of three dollars (\$3.00 per acre) to the Department for every acre treated under this contract. The total number of acres treated and the total payment to the Department will be determined at the conclusion of the contract. The Contractor will submit payment to the Department within 30 days of the submission of the Department's invoice.

7. PRICING SCHEDULE

7.1 Instructions for Bidding:

- 7.1.1** For bids to be considered, the Contractor must have
- 1.) Attended, or have been represented at, the Mandatory Release Pre-Bid Meeting,**
 - 2.) Completed and signed the Invitation To Bid Sheet, Page 1,**
 - 3.) Completed the bid form (Sections 7.2 and 7.3) as per these Instructions for Bidding,**
 - 4.) Completed Attachment #6,**
 - 5.) Completed Attachment # 8**
 - 6.) Signed any contract addendum generated from the Pre-Bid Meeting, if applicable, and**
 - 7.) Return this entire document in time to reach Charlottesville, VA before 11:00 A.M., March 28, 2013. (Mail can be slow - - allow adequate time).**

Anyone wishing to attend the bid opening should be at the Department of Forestry's, Headquarters Office **Board Room** by 1:00 P.M. There will be no changes or alterations to the bids after 11:00 A.M. Bids completed incorrectly will be disqualified.

- 7.1.2** Contractor must enter a bid for **all** release treatments in the spray area (see Attachment 1).
- 7.1.3** Bids shall be made and the contract awarded on the basis of Contractor's per acre bid.

- 7.1.4 There are two release options for 2012. Chemicals used will be:

RELEASE (Loblolly Pine)
Lineage Clearstand® + Appropriate Non-Ionic Surfactant according to label recommendations at no more than ¼ percent by volume that is approved by the chemical manufacture
RELEASE (Shortleaf Pine)
Contractor's chemical choice: 12 oz of an imazapyr formulation containing 4 lb active ingredient/gallon

- 7.1.5 Contractor bids for release shall be used for the bid in section 7.3 in calculating the average weighted bid. The contract for release within the spray area (Attachment 1) shall be awarded to the contractor with the lowest average weighted price per acre. In case of a tie "preference shall be given to goods, services and construction produced in Virginia or provided by Virginia persons, firms or corporations, if such a choice is available; otherwise, the ties shall be decided by a coin toss." (Chapter 2, Section 2.22.a, Commonwealth of Virginia Agency Procurement Manual).
- 7.1.6 To obtain a single average weighted bid, the per acre bid for each treatment and application method is multiplied by the listed acreage (Attachment 2). If there are no estimated acreage figures shown in Attachment 2, for each rate, the per acre bid will be weighted using 100 acres. The per acre bid from Section 7.3 is weighted using 100 acres. All products are then added and their sum divided by the total acres in the spray area.
- 7.1.7 After completing the Invitation for Bid Sheet (Page 1), the Bid Form (Section 7.2 and 7.3), and Attachment 6, this entire document should be enclosed in a separate envelope and submitted to the Department, to arrive by **11:00 A.M., March 28, 2013**. Mark the outside as follows: **"Sealed bid for the application of release herbicides in Spray Area 2 in the Commonwealth of Virginia to be opened only at the Board Room of the Department of Forestry's Headquarters Office on March 28, 2013 at 1:00 P.M."**
- IF BIDS ARE HAND DELIVERED, DELIVER TO: Department of Forestry Headquarters Office. Enclose this sealed envelope in a second envelope addressed to the Department of Forestry, 900 Natural Resources Drive, Suite 800 Charlottesville, VA 22903**
- 7.1.8 After bids have been evaluated, the Department will indicate and post for 10 days an "intent to award" the spray area contract. Upon request, persons bidding will receive a list of those who have bid and the prices offered. The contracts will be awarded and mailed to the successful bidder.
- 7.1.9 **Announcement of Award:** Upon the award or the announcement of the decision to award a contract over \$30,000, as a result of this solicitation, the purchasing agency will publicly post such notice on DGS/DPS eVA website (www.eva.state.va.us) for a minimum of 10 days.
- 7.1.10 The contract is enclosed. The contract (Attachment 7) must be signed and returned with the bid packages to the Department of Forestry, **900 Natural Resources Drive, Suite 800 Charlottesville, VA 22903**. Once an award has been made, the complete contract will then be mailed to Contractor.

- 7.2 Contractor will use the following form for submission of bids to the Department: **NOTE TO BIDDER:** **Make sure that a bid is submitted in the appropriate blank in Section 7.3 or your entire bid may be rejected.**

<i>Contract No. 411:A13000-12</i>	Spray Area (2) Bid Per Acre
RELEASE (Loblolly Pine)	
<u>Aerial Release Application:</u> 10 oz. Lineage Clearstand® + Appropriate Non-Ionic Surfactant applied at 10 gallons per acre	
<u>Ground Release Application: Skidder</u> 10 oz. Lineage Clearstand® + Appropriate Non-Ionic Surfactant applied at 20 to 30 gallons per acre <u>Ground Application: Hand Sprayer</u> 10 oz. Lineage Clearstand® + Appropriate Non-Ionic Surfactant applied per manufactures label that will result in release of 90% of pines per acre <u>Submit one bid to include both methods</u>	
RELEASE (Shortleaf Pine)	
<u>Aerial Release Application:</u> 12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Appropriate Non-Ionic Surfactant applied at 10 gallons per acre	
<u>Ground Release Application: Skidder</u> 12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Appropriate Non-Ionic Surfactant applied at 20 to 30 gallons per acre <u>Ground Application: Hand Sprayer</u> 12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Appropriate Non-Ionic Surfactant applied per manufactures label that will result in release of 90% of pines per acre <u>Submit one bid to include both methods</u>	

- 7.3 Each year there may be acreage treated with chemical furnished by the chemical manufacturer(s) for chemical inactivity re-spray and/or for test plot application. An acreage figure of 100 will be used to weigh each bid in this section.

For the work described in Section 7.3, the following bid per acre is submitted that includes all services, except supplying chemical, regardless of tract or plot size for the spray area(s) designated.

<i>Contract No. 411:A13000-12</i>	Spray Area (2) Bid Per Acre
Aerial Application	
Ground Application	

8. **PERFORMANCE**

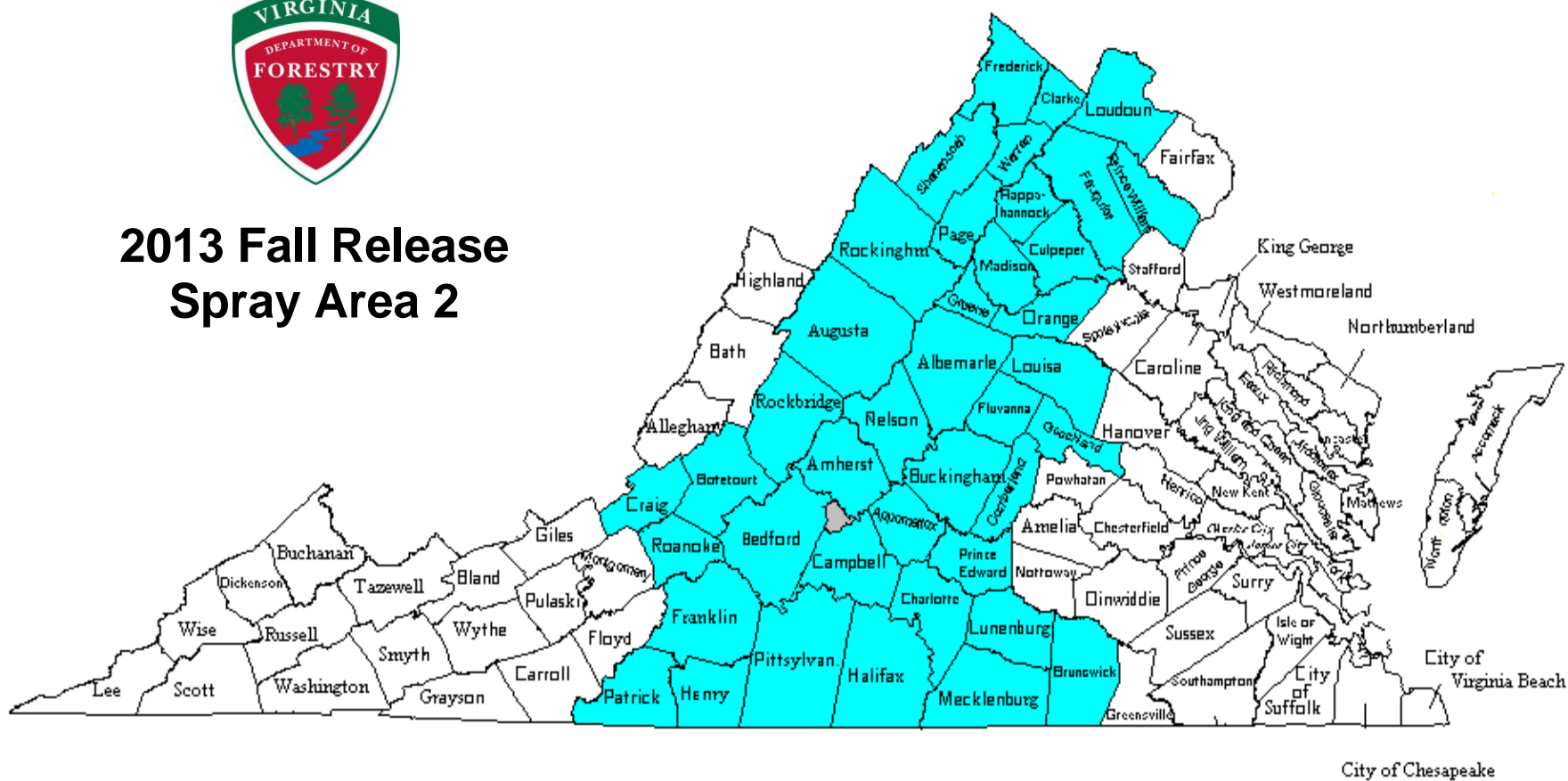
- 8.1 **Restitution:** The Contractor agrees to provide restitution to the Landowner should ineffective results occur as a result of faulty application or improper mixture. The nature of the restitution shall rest solely with the Landowner. At the Landowner's discretion restitution shall be (1) refund of monies paid to the Contractor or (2) re-treatment of areas which are considered inadequate or incomplete. Re-treatment of areas under these circumstances will be at no cost to the Department or the landowner.
- 8.2 The Contractor shall be notified of unsatisfactory work within one year after completion of the contract, and the Landowner's decision as to the method of restitution.
- 8.3 **Re-treatment:** When re-treatment is required, it shall be the responsibility of the Contractor. The Contractor may contract with another qualified Contractor to accomplish the re-treatment with the consent of the Landowner. Re-treatment shall be with the formulation and mixture shown in 8.4 below or equivalent.
- 8.4 When re-treatment is required for areas sprayed for release, re-treatment shall be with the herbicide or herbicide mix and at the rate specified in the initial application unless otherwise specified by the Department. Re-spray shall be accomplished within one or two years of the original spray as specified by the Department. All re-spray shall be in full compliance with all stipulations of the original contract unless otherwise specified by the Department. Re-treatment will be at the contractor's expense.
- 8.5 **Performance Bond:** The contract is considered to be executed on the date of the Department's signature. The contractor will be required, within 15 days of that signing date, to submit to the Department a Performance Bond, or a certified check in the amount of \$150,000.00 (One Hundred Fifty Thousand dollars and zero cents) made out to the "State Forester" at no cost to the Commonwealth. The Bond will cover the full contract period and must be executed by a cooperate surety authorized to do business in the Commonwealth of Virginia. The Bond will name the Commonwealth, and the Department as the payee.
- 8.5.1 For work in Contract #411:A13000-12, a performance bond of \$ 150,000.00, will be required.
- 8.5.2 The Performance Bond or Certified Check will be released by the Department of Forestry immediately upon completion of non-performance provision (Section 8.6) or completion of restitution or re-treatment as required in Sections 8.1, 8.2, 8.3, and 8.4.
- 8.6 **Non-performance Provision:** To cover general program delay, caused by the Contractor, liquidated damages in the amount of \$32.00 per hour per incident or \$256 per day shall be assessed. The Contractor shall pay the Department 35% of the bid price for the specific prescription rate per acre for each acre not treated because of contract time constraints for each participating landowner who returned the signed contract to the contractor by 5:00 pm, July 1. If the Contractor fails to send a contract to each landowner on the Department's contact list by April 25, a penalty of 10% of the landowner contracted price for each specific landowner who did not receive a contract will be assessed.
- 8.6.1 Weather conditions cannot be used as a reason to not fulfill this contract, unless the operation is delayed by a documented extreme weather event or events per attachment #3

9. ATTACHMENTS

- 9.1** **Attachment 1** - *State Map showing Designation of Spray Area.*
- 9.2** **Attachment 2** - *County lists by Spray Contract Area showing estimated tracts and acreage figures.*
- 9.3** **Attachment 3** - *Virginia Department of Forestry Guidelines for the Application of Herbicides.*
- 9.4** **Attachment 4** - *Formulations and Applications.*
- 9.5** **Attachment 5** - *Contractor Charges to the landowner to be completed by the Department after contract has been awarded.*
- 9.6** **Attachment 6** - *Certification regarding debarment, suspension, ineligibility, and voluntary exclusion.*
- 9.7** **Attachment 7** - *Contract form--to be completed by the Department after contract has been awarded.*
- 9.8** **Attachment 8** – *State Corporation Commission Form*
- 9.9** **Attachment 9** – *Landowner – Department of Forestry Disclosure Statement*
- 9.10** **Attachment 10** - *DOF Form 159 – Individual Tract Aerial Herbicide Application Sheet*
- 9.11** **Attachment 11** - *DOF Form 158 – County Summary of Aerial Herbicide Application*



2013 Fall Release Spray Area 2



Attachment 2

Summary of Estimated Spray Acres by County, Prescription and Application Method.

Contract #411:A13000-12

AERIAL APPLICATION <u>CENTRAL & WESTERN REGIONS</u>	RELEASE (Loblolly) Lineage Clearstand®		Release (Shortleaf) 12 oz Imazapyr (4 lb/gallon)	
	Tracts	Acres	Tracts	Acres
County				
Albemarle	6	223		
Amherst	5	166		
Bedford	23	1250		
Buckingham	36	1421		
Campbell	30	1220		
Charlotte	31	1045		
Cumberland	23	1179		
Fluvanna	18	1413		
Goochland	17	1184		
Franklin	41	820	1	13
Halifax	67	2222		
Henry	9	244		
Louisa	22	2077		
Lunenburg	32	1488		
Mechlenburg	47	1904		
Nelson	11	785		
Orange	2	60		
Patrick	5	119		
Pittsylvania	47	2304		
Prince Edward	13	846		
Totals	485	21,970	1	13

Summary of Estimated Spray Acres by County, Prescription and Application Method.

Contract #411:A13000-12

GROUND APPLICATION CENTRAL & WESTERN REGIONS	RELEASE (Loblolly)		RELEASE (Shortleaf)	
	Lineage Clearstand®		12 oz Imazapyr (4 lb/gallon)	
County	Tracts	Acres	Tracts	Acres
Albemarle	4	37		
Amherst	7	78		
Buckingham	15	258		
Campbell	1	5		
Cumberland	4	30		
Fluvanna	4	41		
Goochland	6	72		
Halifax	5	38		
Henry	4	42		
Louisa	5	83		
Mechlenburg	8	78		
Nelson	1	9	1	17
Prince Edward	4	53		
Totals	68	824	1	17

Attachment 3 (1 of 3)

**DEPARTMENT OF FORESTRY
GUIDELINES FOR THE APPLICATION OF HERBICIDES**

1. A Forester (as defined by the Code of Virginia, a Certified Forester (CF) or a Candidate Certified Forester (CCF) certified by the National Society of American Foresters) with at least one year aerial spray experience and a current Virginia Commercial Pesticide Applicators Certificate in Forest Pest (category 2), will work on site during all aerial operations with the Applicator who is working under the Department contract.
2. Chemical application will be governed by the official contract; copies are distributed to the Regions. Department Foresters should not attempt to supervise the Applicator or his employees but should see that the specifications of the contract are met. By contract, the Department can inspect the applicator's operations, equipment, chemicals, etc. at any time during this contract.
3. Each Region is expected to check herbicide labels to make sure the proper formulation is being used. If the mixing is not done locally, request herbicide labels from the Contractor. Department personnel will not transport chemical for the Contractor.
4. The Department Foresters are to give the Contractor an IFRIS generated map before treatment begins. This map will show streams, hazard areas, buffer zones, roads, etc. and the total acreage to be treated. **If adjustments are made to the actual acreage treated, the changes shall be noted on the map and in the pilot's flight log or the Crew Supervisor's log before leaving the tract.** If the tracts have not been measured by DOF using GPS prior to the spray application, the contractor may measure the tract using GPS prior to or during treatment to determine accurate acre measurements. The DOF forester will allow up to 2 acres difference in DOF spray acreage to the Contractor's spray acreage and will adjust the application acres accordingly upon receiving GPS documentation from the contractor. Any differences higher than 2 acres may be re-measured by the contractor and DOF and both entities must come to an agreement on final acres. The pilot or Crew Supervisor will initial maps following treatment; signed maps will be provided to the Department by the Contractor.
5. The Department's Area Forester and the Contractor's Forester, CF, or CCF will communicate prior to the tracts within the county being sprayed to discuss county and tract specific information. The Department will be available to show the tracts to the Contractor. Should boundary markings be questionable, The Department forester should mark the boundary or treat boundary trees at intervals around the tract so that they are visible. This marking will be done in advance of any treatment.
6. Tract Visits: In preparing for the spraying operation, the contractor's Forester, CF, or CCF will exercise due diligence in planning for the operation; including making necessary site visits and reconnaissance.
7. The contractor will locate suitable landing sites, mixing and loading sites and lead the Applicator from tract to tract. **If landing sites, mixing and loading sites are located on lands owned by someone other than the person having the treatment done; permission must be obtained to use the site.**
8. A Forester, CF or CCF, employed by the contractor, with a minimum of one season's aerial application experience, and a current Virginia Commercial Pesticide Applicators Certificate in Forest Pest (category 2) will be on hand at all times during aerial treatment projects. It will be mandatory that a Forester, CF or CCF be on the tract at all times and give radio approval for treatment to begin. The Forester, CF or CCF is to stop the treatment at any time there appears to be a hazard or contract violation.
9. A Department Forester, designated by the Regional Staff, will be responsible for all applications in a region on a daily basis. The Forester should be thoroughly familiar with the contract so that specifications will be met. This "Regional Spray Coordinator" shall keep a running diary of treatment operations. Pertinent information will be recorded concerning cause(s) of delay and whose decision, source(s) of water, (if liquid application), mechanical breakdown, off-site application, complaints, public contact, rainfall, etc.
10. The Forester, CF or CCF employed by the contractor must have radio communication with the pilot on aerial application tracts, and approve the beginning of treatment. If there is radio failure, the operation will cease.
11. The Contractor will have a signed contract with the landowner prior to herbicide application. After treatment, and upon Department acreage approval, the Contractor will bill the landowner for the treated acres. The Contractor may request 50% of the estimated cost of the treatment from the landowner prior to treatment of the tract.

Attachment 3 (2 of 3)

12. The Forester, CF or CCF employed by the contractor or Crew Supervisor must complete Form 159 "Individual Tract Aerial Herbicide Applications Log Sheet" or a Department approved company form for each parcel treated, to include aerial treatment and ground based treatments. This log is used to record every load of herbicide applied on that parcel to include time of take-off, or start time, gallons or pounds of herbicide in the load and the cumulative total of herbicide applied to the parcel. **Form 159 - Log Sheets and maps will be available to DOF upon request.**

For liquid applications, a batch log must also be completed on Form 159 or approved company form. Record under Product 1, 2 etc. the gallons of herbicide(s), surfactant and water used to make up each batch. Record the lot number of each herbicide and the date and time of batch mix completion.

Also, record whether the applications is for release, site prep or respray; parcel acreage sprayed to the nearest acre; the intended rate per acre of herbicide and surfactant application; and for liquids the total gallons per acre applied.

Also, at minimum record weather at the start and finish of each parcel; and for parcels requiring more than one day, at the beginning of each successive day. Record with a check of yes or no whether rain occurred within two hours before the commencement of spraying or within three hours after the termination of spraying.

Under remarks, document any problems such as fog, rain, mechanical failure etc. and correlate with load number. Use the back of the form if needed.

Upon completion of spraying a parcel, attach the log sheet to the treatment map.

At the end of each spray week (Monday to Monday), both aerial and ground application, the Form 158, "County Summary of Aerial Herbicide Application" or approved company form will be completed by the Contractor and sent to the Regional Spray Coordinator's Office. Each parcel is recorded on a separate line, listing landowner, DOF tract number, date(s) of application, acres planned, acres treated, and reason for any acreage differences. A separate sheet is required for, each release mixture, each application method and each respray mixture (where retreatment is conducted for greenstreaking or chemical inactivity even though a charge to the landowner is not involved).

13. If there are questions about the success of an individual project, the final decision will be made by Regional Spray Coordinator and State Spray Coordinator.
14. Statewide coordination of this program will be with the Forest Resource Management Division. Refer questions, comments, and problems pertaining to this program to the Division Director or Assistant Division Director. Regional coordination will be left to the Regional staff.
15. Problems, concerns, citizen and media inquiries, are likely during treatment operations. The Regional Spray Coordinator is to be notified **IMMEDIATELY** (at any time) of any actual or potential problem, accident, or public reaction to this program.
16. The Contractor **WILL INFORM ALL RESIDENTS LIVING WITHIN 500 FEET OF EACH TREATMENT PROJECT OF THE PLANNED OPERATION. DETERMINE FROM RESIDENTS ANY SENSITIVE SITES OR CONCERNS THEY MAY HAVE.** While we realize that this may not be possible in all cases, this notification should occur 3-4 weeks prior to the treatment date.
17. The Forester, CF or CCF on-site will see that there are no applications as follows:
- A. **Streams & Impoundments:**
1. **Aerial and Ground Broadcast Spray Application:**
No treatment shall be allowed within 50 feet of flowing streams or drainage ditches, or 100 feet of impoundments, except public water supply lakes where no treatment shall be allowed within 500 feet, and trout streams where no treatment shall be allowed within 200 feet.
 2. **Hand Directed Foliar Spray Application:**
No treatment shall be allowed within 25 feet of flowing streams or drainage ditches, or 50 feet of impoundments, except public water supply lakes where no treatment shall be allowed within 100 feet, and trout streams where no treatment shall be allowed within 200 feet.

Attachment 3 (3 of 3)

- B. Boundary Lines:
1. Aerial and Ground Broadcast Spray Application:
No treatment shall be allowed within 25 feet of a landowner's property line unless the property line borders a private or secondary road, or unless otherwise specified by the Landowner for a specific tract.
 2. Hand Directed Foliar Spray Application:
Treatment shall be permitted to the landowner's property line unless otherwise specified by the Landowner or the Department.
- C. Roads & Highways:
1. Aerial and Ground Broadcast Spray Application:
No treatment shall be allowed within 50 feet of the edge of right-of-way for interstate, U.S. and primary highways. Treatment shall be permitted adjacent to secondary roads unless otherwise specified by the Department for a specific tract.
 2. Hand Directed Foliar Spray Application:
Treatment shall be permitted adjacent to roads unless otherwise specified by the Department for a specific tract.
- D. Residence & Public Buildings:
1. Aerial and Ground Broadcast Spray Application:
No treatment shall be allowed within 300 feet of any residence, store, or other building normally housing people or within 500 feet of any school, hospital, or other public gathering place unless written permission has been obtained by the Contractor.
 2. Hand Directed Foliar Spray Application:
No treatment shall be allowed within 50 feet of any residence, store, or other building normally housing people or within 100 feet of any school, hospital, or other public gathering place unless written permission has been obtained by the Contractor.
- E. Fog: No treatment shall be allowed in fog or when there is danger of getting the chemical mix in a fog bank. Defining fog conditions shall be the responsibility of the Department.
- F. Rain: No treatment shall be allowed during rain or when it seems apparent it will rain within the next 3 hours. After a rain, spraying can continue after the water has run off the leaves sufficiently to insure that spray runoff or mix dilution will not occur.
- G. Wind:
1. Aerial and Ground Broadcast Spray Application: No treatment shall be allowed when wind speed exceeds 5 miles per hour.
 2. Hand Directed Foliar Spray Application: No treatment shall be allowed when winds are capable of causing off site movement of the treatment mix or will not allow for uniform application.
- H. Inadequate Soil Moisture: If during the course of this project, rainfall has been deficient to the point that vegetation is not actively growing, spraying shall be stopped. The decision to stop treatment due to inadequate soil moisture shall be made only by the Department.
- I. Freeze: All spraying shall cease and this project shall be terminated should a frost occur and that frost is severe enough to kill the leaves of target vegetation.
- K. Without initial radio approval by the forester on site to pilot.
18. **Prior to arrival of the spray ship in a county, the Forester, CF or CCF employed by the contractor will notify the Regional Spray Coordinator's Office and the County Sheriff's Office of the expected dates and purpose of operation in the county. Include the company name, type of helicopter and tail number in the notification. Notify the Regional Office and the Sheriff's Office again on the departure of the ship from the county.**

Attachment 4
FORMULATIONS AND APPLICATIONS

Herbicides used will have approved labels for aerial application appropriate for release as prescribed by the Department for individual projects. The herbicides for this release contract will be Lineage Clearstand®, and Contractor selected Imazapyr 4 lb/gallon as prescribed by the Department. Mixtures and volumes are shown below.

Each acre of each tract on which ***release spraying*** is done will receive one of the following mixtures as specified by the Department:

<u>Aerial Release Application:</u> (10 oz Lineage Clearstand® + Appropriate amount of Non-Ionic Surfactant, Volume per acre – 10 gallons Woody vegetation will be treated in such a manner to achieve 90% coverage of the treatable area as determined by the Department in the 2014 growing season
<u>Ground Release Application: Skidder</u> (10 oz. Lineage Clearstand® + Appropriate amount of Non-Ionic Surfactant applied at 20 to 30 gallons per acre Woody vegetation will be treated in such a manner to achieve 90% coverage of the treatable area as determined by the Department in the 2014 growing season
<u>Ground Release Application: Hand Sprayer</u> (10 oz. Lineage Clearstand® + Appropriate Amount of Non-Ionic Surfactant Applied per manufactures label that will result in release of 90% of pines
<u>Aerial Release Application (Shortleaf pine):</u> (12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Appropriate amount of Non-Ionic Surfactant, Volume per are – 10 gallons) Woody vegetation will be treated in such a manner to achieve 90% coverage of the treatable area as determined by the Department in the 2014 growing season
<u>Ground Release Application: Skidder (Shortleaf pine)</u> (12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Appropriate amount of Non-Ionic Surfactant applied at 20 to 30 gallons per acre) Woody vegetation will be treated in such a manner to achieve 90% coverage of the treatable area as determined by the Department in the 2014 growing season
<u>Ground Release Application: Hand Sprayer (Shortleaf pine)</u> (12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Appropriate amount of Non-Ionic Surfactant Applied per manufactures label that will result in release of 90% of pines

The Department reserves the right to use special chemicals at prescribed/labeled rates depending on the need and/or results required. Where special or test chemicals are used, an agreement will be reached between the Department and the Contractor prior to the application.

Attachment 5

CHARGES TO THE LANDOWNER ^{1/}

The Contractor hereby agrees to provide all the services and chemical, and meet all the requirements as outlined in this agreement for the following charges per acre to the Landowner.

Spray Area 2

RELEASE		
<i>Application Method</i>	<i>Aerial Application</i>	<i>Ground Application (Skidder and Hand Spray)</i>
Lineage Clearstand + Non-Ionic Surfactant (Loblolly Pine)		
12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Non-Ionic Surfactant (Shortleaf Pine)		

*Specify surfactant upon award of contract and within the chemical company's guarantee recommendation.

These charges will be made to the Landowner based on the following estimated acreages and number of tracts in **Contract # 411:A13000-12 for Spray Area 2.**

Release				
<i>Application Method</i>	<i>Aerial Application</i>		<i>Ground Application (Skidder and Hand Spray)</i>	
	Tracts	Acres	Tracts	Acres
Lineage Clearstand® + Non-Ionic Surfactant (Loblolly Pine)	485	21,970	1	13
12 oz Imazapyr formulation containing 4 lbs active ingredient/gallon + Non-Ionic Surfactant (Shortleaf Pine)	68	824	1	17

A price of \$_____per acre for aerial tracts and a price of \$_____for ground applied tracts will be charged where the contractor furnishes all services except chemical. This price shall be a firm acre charge regardless of tract or plot size.”

^{1/} All blanks in the Attachment, including surfactant, will be completed by the Department once a contractor has been selected.

U.S. DEPARTMENT OF AGRICULTURE

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization name [411:A13000-12 (Spray Area 2)]
PR/Award Number or Project Name

Authorized Representative Name and Title of

Signature Date

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitation for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Attachment 7^{1/}
Commonwealth of Virginia - Department of Forestry
Contract #: **411:A13000-12** (Spray Area 2)

FALL RELEASE CONTRACT

This contract entered into this _____ day of _____ (month) 2012,
by _____ hereinafter called the "Contractor" and Commonwealth of
Virginia, Department of Forestry, hereinafter called the "Purchasing Agency".

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF SERVICES: The Contractor shall provide the services to the Purchasing Agency as set forth in the contract documents.

PERIOD OF THE CONTRACT: Aerial and ground broadcast spray application – from August 1, 2013 through October 1, 2013. Hand directed foliar spray application – from July 15, 2013 through October 1, 2013.

For Contract 411:A13000-12 (Spray Area 2)

Performance stipulation extends until October 1, 2014.

The Contract Documents shall consist of:

- (1) This signed form;
- (2) The attached portions of the Invitation For Bid dated _____
 - (a) The Scope of Work, and/or items description
 - (b) The General Terms and Conditions
 - (c) The Special Terms and Conditions together all of which documents are incorporated herein.

COMPENSATION AND METHOD OF PAYMENT: The Contractor shall be paid by the Landowner as set forth in Section 6 of the Invitation For Bid Document. The Contractor will pay the Department \$3 per acre for each acre completed as set forth in Section 6 of the Invitation for Bid Document.

CONTRACT DOCUMENTS: The Contract Documents shall consist of this signed Contract; the Invitation For Bids submitted by the Contractor; the general conditions, special conditions, specifications and other data contained in the Invitation For Bids together with all written modifications thereof; all of which Contract Documents are incorporated herein.

Any contractual claims shall be submitted in accordance with the contractual dispute procedures set forth in the Commonwealth of Virginia Vendor's Manual.

In witness whereof, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR

PURCHASING AGENCY

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

1/ All blanks will be completed once a contractor has been selected.

STATE CORPORATION COMMISSION FORM

For the 2013 Program Year
Herbicide Release Spray Contract
Contract # 411: A13000-12 (Spray Area 2)

Virginia State Corporation Commission (SCC) registration information. The bidder:

☐ is a corporation or other business entity with the following SCC identification number: _____

OR

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust

OR

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location)

OR

☐ is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver): ☐

**DEPARTMENT OF FORESTRY
HERBICIDE SPRAY PROGRAM PARTICIPATION AGREEMENT**

For the 2013 Program Year
Herbicide Release Spray Contract
Contract # 411:A13000-12 (Spray Area 2)

PURPOSE AND DESCRIPTION: The Virginia Department of Forestry (Department), as a service to private forest landowners, is offering to arrange a pine herbicide release spraying contract. Landowners in need of pine herbicide release services may choose to include their properties among those of similar owners. The Department groups these tracts within a given geographic area, and by doing so establishes a larger body of work to interest and secure contractors. A Department-sponsored herbicide release contract is then assembled and sent to prospective bidders. In order to be considered for bidding, contractors must meet insurance, state and federal law, and specific contract performance requirements. One contract requirement is that a professional forester (non-Department) must be present at the site for all aerial applications. The Department will conduct a competitive bid following the Department and State Purchasing guidelines. The Department will then award the contract to the successful bidder (the Contractor) if it meets all the qualifications.

DEPARTMENT RESPONSIBILITIES:

The Department will:

- Prepare a bid package and bid out work according to state guidelines and standards, including chemical recommendations and application methods.
- Prepare and provide a map of area in need of treatment to landowner and the Contractor.
- Offer to show the tract to the Contractor one time.
- Spot check randomly selected tracts to insure that contract specifications are met. Each tract in the contract may not be checked.
- Re-inspect all tracts during the following spring to determine effectiveness of treatment and report the results to the landowner and the Contractor.
- The Department will charge a fee of \$3 per acre to the Contractor to help defray the cost of administration of this program.
- The Contractor may choose to add this fee to the landowner costs.
- Obtain and make available to landowners and the Contractor letters from manufacturers of the herbicides used indicating their recommendations for use of such materials and the terms of their guarantees of their respective products.
- Allow subcontracting only by written consent of the Department.

The Department will not:

- Be a party to the agreement between landowner and the Contractor.
- Be involved in the operational aspects of pre-spray set-up or spraying.
- Be involved in any fiscal sense, other than to receive \$3/ac from the Contractor.
- Be legally responsible for any adverse effects or damages to landowner's trees or other property caused by the application by Contractor of herbicides or by the herbicides themselves

LANDOWNER RESPONSIBILITIES:

- Request herbicide application treatment on their property.
- Sign a contract, containing specific application terms including payment terms, with the Contractor.
- Acknowledge that the Contractor is fully responsible for all services being rendered under the contract. Therefore, any conflicts or claims regarding the herbicide application project are between the Landowner and the Contractor.
- Allow the Department access to the property as needed to monitor the project.
- Acknowledge that the manufacturers of herbicides and other chemicals used in spraying under this program are responsible for the performance of their respective products.

LANDOWNER AGREEMENT:

I, _____, owner of forestland, wish to participate, in the Department of Forestry Pine Herbicide Release Contract (#411:A13000-12). I have read and understand the above description, including Department and Landowner responsibilities. I understand that the Contractor is fully responsible for all services being rendered under the contract and that the manufacturers of the herbicide being applied are responsible for the performance of their products in accordance with their respective warranties. In consideration of my participation in this program, I agree to indemnify, defend and hold harmless the Commonwealth of Virginia, its agencies, officers, agents, and employees from any claims, damages and actions of any kind or nature, by Contractor or by third parties, whether at law or in equity, arising from or caused by Contractor's performance under any contract awarded hereunder, including but not limited to claims arising as the result of the use of materials, goods, equipment or services furnished by Contractor thereunder.

Landowner or Authorized Agent Signature

Date

Department of Forestry Representative Signature

Date

Form 159
6/01/2000

VIRGINIA DEPARTMENT OF FORESTRY

INDIVIDUAL TRACT AERIAL HERBICIDE APPLICATION SHEET

COUNTY _____

CONTRACT NO.

LANDOWNER _____

APPLICATOR COMPANY

TRACT NO. / PARCEL _____

PILOT NAME _____

DOF RECORDER

☐ RELEASE ☐ SITE PREP

ACRES (to nearest acre)

☐ RESPRAY ☐ GREEN STREAKS**HERBICIDE & RATE PER ACRE**

SURFACTANT & RATE PER ACRE

TOTAL APPLICATION PER ACRE (gallons)

APPLICATION LOG

DATE(S):

LOAD #	TIME OFF	GALLONS OR LBS.	CUMULATIVE	LOAD #	TIME OFF	GALLONS OR LBS.	CUMULATIVE
1				11			
2				12			
3				13			
4				14			
5				15			
6				16			
7				17			
8				18			
9				19			
10				20			

BATCHING LOG

CHEMICAL DATA	PRODUCT 1	PRODUCT 2	PRODUCT 3	WATER	TOTAL MIX
NAME					
LOT #					

DATE	TIME	GALLONS				
TOTAL						

SOURCE OF BATCH WATER:

REMARKS

DATE					
TIME					
WIND INFORMATION	DIRECTION				
	VELOCITY				
TEMPERATURE					
RELATIVE HUMIDITY					
RAINFALL WITHIN 2 HOURS BEFORE			<input type="checkbox"/> YES	<input type="checkbox"/> NO	
RAINFALL WITHIN 3 HOURS AFTER			<input type="checkbox"/> YES	<input type="checkbox"/> NO	

PURPOSE: ☐ RELEASE ☐ SITE PREP

RESPRAY: ☐ PILOT ERROR ☐ CHEMICAL INACTIVITY

[illegible]

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